

From: [Keneally, Kathy](#)
To: [Smith, Corey \(TAX\)](#); [Magnani, Christopher \(TAX\)](#); [Langston, Lee F. \(TAX\)](#)
Cc: [Varnado, Jason S.](#); [Loonam, James P.](#); [Druce, Georgina N.](#)
Subject: RE: US v. Brockman
Date: Friday, March 12, 2021 3:14:55 PM

Corey,

We agreed that the hospitals would be given my cell number as a contact. No calls were made to that number. I have no idea what contact numbers were used in any attempt to reach the Brockmans, but to my knowledge they did not receive any calls.

All Dr. Darby provided was general contact information for each hospital, which frankly I assumed was to address the kind of logistics that may arise should someone need directions or be running late. I do not see how providing this information could be understood to shift the onus to us or to Mr. Brockman to get any other information. Fundamentally, I do not see how we could be expected to know what to ask.

Today's extensive delay, and its impact on Mr. Brockman, could have been avoided had the government's medical expert made clear what steps needed to be taken in connection with the test that he ordered.

I am genuinely trying to help here. Not only did we want to avoid exactly what happened today, we do not want there to be any suggestion that your expert could not get the tests that he determined to be necessary. Mr. Brockman will arrive on Wednesday, March 17, at 7 p.m., for the sleep study. Absent further information from Dr. Darby, neither we nor Mr. Brockman are required to do more than that. If there is anything that, from a medical perspective, should be addressed in advance of that test, please have Dr. Darby make these determinations and let us know.

Kathy

Kathryn Keneally
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From: Smith, Corey (TAX) <corey.smith@usdoj.gov>
Sent: Friday, March 12, 2021 2:57 PM
To: Keneally, Kathy <kkeneally@jonesday.com>; Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

**** External mail ****

Kathy

We apologize for this confusion. However, on March 10th (see attached), Dr. Darby provided you with the contact information for the medical facilities conducting the PET Scan and sleep study. He informed you that the medical facilities were going to contact you regarding the upcoming tests. He also told you that he provided them with your contact information. We are informed that Houston Methodist Hospital attempted repeatedly to contact both Mr. Brockman and Mrs. Brockman using the phone numbers provided to them, but were unsuccessful. We don't know if they tried to contact you. We suggest that the best way to avoid these miscommunications is for Mr. Brockman to speak directly to the medical facility conducting these tests – something which Dr. Darby did facilitate. We have never suggested that Mr. Brockman seek this information from his own medical professionals.

Corey J. Smith
Senior Litigation Counsel
Tax Division
(202) 514-5230

From: Keneally, Kathy <kkeneally@jonesday.com>
Sent: Friday, March 12, 2021 1:36 PM
To: Smith, Corey (TAX) <Corey.Smith@tax.USDOJ.gov>; Magnani, Christopher (TAX) <Christopher.Magnani@tax.USDOJ.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@tax.USDOJ.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

Corey,

I do not want to keep going back and forth on this, but I just learned that the PET Scan has been delayed for five hours because Mr. Brockman should have been instructed not to eat for eight hours before the test. Again I ask that Dr. Darby let us know whether there are any similar steps that should be taken in advance of the sleep study. These are not questions to be put to Mr. Brockman's health care providers, nor is it his or our burden to chase down this information. The government's expert sought these tests. We are fully cooperating, but cannot be responsible if something is not done correctly because your expert did not seek out and provide proper instructions for the tests that he has ordered.

Kathy

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From: Keneally, Kathy <kkeneally@jonesday.com>
Sent: Friday, March 12, 2021 9:36 AM
To: Smith, Corey (TAX) <corey.smith@usdoj.gov>; Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

Corey,

I am not trying to insert non-medical government employees in the process. I directed my questions in the first instance to Dr. Darby. I followed up with you in the hope of clarifying the issues in relation to what Dr. Darby is seeking to learn from the tests he has ordered. Specifically I raised the question of sleep medication. If there is something that should be considered in the context of these tests, we are asking that you have Dr. Darby let us know.

Kathy

Sent with BlackBerry Work
(www.blackberry.com)

From: Smith, Corey (TAX) <corey.smith@usdoj.gov>
Date: Friday, Mar 12, 2021, 9:28 AM
To: Keneally, Kathy <kkeneally@jonesday.com>; Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

**** External mail ****

Kathy

We understand, Mr. Brockman is seeking specific requirements for preparation for these tests. These details are best discussed directly with a nurse or medical professional by Mr. Brockman or his caregiver in case there are any follow up questions. We don't know what medications Mr. Brockman is on, or what questions the medical professionals may have for Mr. Brockman. Inserting a non-medical, government employee in the chain of communications on these specifics will only delay things, and may lead to additional confusion.

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From: Keneally, Kathy <kkeneally@jonesday.com>
Sent: Friday, March 12, 2021 9:23 AM
To: Smith, Corey (TAX) <Corey.Smith@tax.USDOJ.gov>; Magnani, Christopher (TAX) <Christopher.Magnani@tax.USDOJ.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@tax.USDOJ.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

Corey,

I apologize for any confusion in my questions. I am seeking to find out whether Mr. Brockman should take any special steps, e.g., eating or not, or suspending any medications, in connection with the testing that Dr. Darby is seeking. If so, please let us know. Neither Mr. Brockman nor we are in any position to determine that. These questions are not intended to interfere in any way. I am genuinely trying to make sure that he meets expectations for accurate tests.

Kathy

Sent with BlackBerry Work
(www.blackberry.com)

From: Smith, Corey (TAX) <corey.smith@usdoj.gov>
Date: Friday, Mar 12, 2021, 8:31 AM
To: Keneally, Kathy <kkeneally@jonesday.com>, Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>, Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>, Loonam, James P. <jloonam@jonesday.com>, Druce, Georgina N. <gdruce@JonesDay.com>
Subject: RE: US v. Brockman

**** External mail ****

Kathy

We are in receipt of your email. Dr. Darby and the government have made the arrangements for the PET scan today at 9:30 am at Houston Methodist outpatient center and the sleep study on 3/17/21 at 7:00 pm at the Texas Medical Center. Per your request, you have asked for details regarding who

may attend Mr. Brockman during these exams, what meals he may have beforehand, any limitations on medications, etc. It seems that these medical details are best conveyed by the medical centers directly to Mr. Brockman, and/ or his caregiver. We fail to see how interjecting an IRS Special Agent or DOJ attorney in the conveying of this medical information is more efficient or assists in this process.

If Mr. Brockman, or his caregiver, have any follow-up questions on this information, those questions are best fielded directly by the medical centers, not conveyed to the government, who will then have to re-convey them to the medical centers, etc, etc.

As we agreed, we expect Mr. Brockman to arrive for this appointments on time, so we may expedite this process without further delay.

Thank you.

Corey J. Smith
Senior Litigation Counsel
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From: Keneally, Kathy <kkeneally@jonesday.com>
Sent: Thursday, March 11, 2021 3:50 PM
To: Smith, Corey (TAX) <Corey.Smith@tax.USDOJ.gov>; Magnani, Christopher (TAX) <Christopher.Magnani@tax.USDOJ.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@tax.USDOJ.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Druce, Georgina N. <gdruce@JonesDay.com>
Subject: FW: US v. Brockman

Corey and team,

I am leaving Dr. Darby off this response in the hope that it will simplify finding a better path forward. We have agreed to make Mr. Brockman available for testing and examinations. We have not agreed to make any of the arrangements with the testing hospitals; to the contrary, we understood that the government would handle this. We simply cannot be responsible for reaching out to the hospitals, as Dr. Darby proposes, to learn the protocols for food and medication. It is as a courtesy that I raised the issue of whether any particular steps should be taken concerning Mr. Brockman's medications in advance of the tests, and whether he should make any arrangements for food before or during the eleven-hour sleep study. We will use best efforts to provide Mr. Brockman with relevant information, but we look to you and your experts on these issues.

Kathy

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From: Ryan Darby <[REDACTED]>
Sent: Thursday, March 11, 2021 3:42 PM
To: Keneally, Kathy <kkeneally@jonesday.com>
Cc: Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>; Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Smith, Corey (TAX) <corey.smith@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Subject: Re: US v. Brockman

**** External mail ****

I would recommend contacting the sites performing each study for questions regarding medications and timing of meals.

Best,

Ryan Darby

Sent from my iPhone

On Mar 11, 2021, at 11:51 AM, Keneally, Kathy <kkeneally@jonesday.com> wrote:

Dear Dr. Darby and All,

Please let me know if there may be any issues in connection with the proposed tests and Mr. Brockman's medications. In particular I understand that he takes trazodone nightly for sleep. Also, given the hours that he will be in the sleep lab, should he make any arrangements to eat before, or are there any other protocols that we should know? Thank you.

Best,
Kathy

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kkeneally@jonesday.com

From: Ryan Darby [REDACTED] >
Sent: Wednesday, March 10, 2021 1:52 PM
To: Keneally, Kathy <kkeneally@jonesday.com>
Cc: Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>; Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Smith, Corey (TAX) <corey.smith@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Subject: Re: US v. Brockman

Dear Kathy,

I provided the referrals with your cell as the contact. Each Hospital should call to confirm the details of the appointment. Below is the information I have currently.

1. PET scan, 3/12/2021, 10 AM, Houston Methodist
Check-in at 9:30 AM at Houston Methodist outpatient center. Address 6445 Main street. Wife can accompany him to the waiting room and staff will supervise him to and from the actual scan. The PET scan department number is 713-441-2282.
2. Sleep Study 3/17/2021, 7 PM, Texas Medical Center
Check-in at 7 PM, check-out is at 6 AM. Wife can accompany him to check-in and check-out. Address is Memorial Hermann Hospital Texas Medical Center. 6411 FANNIN. HOUSTON. TX 77030. The sleep lab contact number is 713-704-2337.

Best,

Ryan Darby

On Mar 10, 2021, at 9:29 AM, Keneally, Kathy
<kkeneally@jonesday.com> wrote:

Also it would be helpful to know the protocols at both hospitals for someone to accompany Mr. Brockman.

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From: Keneally, Kathy
Sent: Wednesday, March 10, 2021 7:37 AM
To: 'Ryan Darby' <[REDACTED]>; Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Smith, Corey (TAX) <corey.smith@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Subject: RE: US v. Brockman

Dr. Darby and Counsel,

Thank you for the follow up. I still think that the most practical telephone number is my cell, as I am in the best position to coordinate with the family. I can let them know to ensure that Mr. Brockman uses that number when he checks in. At this point, it would be most helpful to pin down dates and times, so that I can get them started on all this, especially for any test that is to happen this week.

Best,
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From: Ryan Darby <[REDACTED]>
Sent: Tuesday, March 9, 2021 5:19 PM
To: Magnani, Christopher (TAX) <Christopher.Magnani@usdoj.gov>
Cc: Keneally, Kathy <kkeneally@jonesday.com>; Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Smith, Corey (TAX) <corey.smith@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>
Subject: Re: US v. Brockman

**** External mail ****

Chris and Kathy,

Yes, that is correct.

The phone is for standard hospital practice to 1.) coordinate visit / contact

patient, and 2.) confirm it is the right patient when checking in (dob, address, phone matched to patient name in their system).

The PET scan could be scheduled this week at Houston Methodist whereas the sleep study for next week could only be scheduled at Texas Medical.

Best,

Ryan Darby

On Mar 9, 2021, at 4:01 PM, Magnani, Christopher (TAX)
<Christopher.Magnani@usdoj.gov> wrote:

I'll count on Dr Darby to correct me on this if I'm wrong but my understanding based on his email is, yes, the phone number is for the purpose of coordinating the visit. It also seems to me that the PET scan can be done this week at Houston Methodist but the sleep study will be next week at Texas Medical.

From: Keneally, Kathy <kkeneally@jonesday.com>

Date: March 9, 2021 at 4:11:45 PM EST

To: Magnani, Christopher (TAX)

<Christopher.Magnani@tax.USDOJ.gov>

Cc: Varnado, Jason S. <jvarnado@jonesday.com>,

Loonam, James P. <jloonam@jonesday.com>, Smith,

Corey (TAX) <Corey.Smith@tax.USDOJ.gov>,

Langston, Lee F. (TAX)

<Lee.F.Langston@tax.USDOJ.gov>, Ryan Darby

<[REDACTED]>

Subject: US v. Brockman

Chris,

I am assuming that this is for the standard hospital practice of sending confirmations and related communications, or to deal with issues that arise on the days of the examinations. As a practical matter, the person who is best situated to coordinate with the family to make sure that this keeps moving forward is me, so I suggest that you use my cell, [REDACTED].

As to the location, will the PET Scan also be done at Texas Medical Center in conjunction with the sleep study?

Best,
Kathy

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From: Magnani, Christopher (TAX)
<Christopher.Magnani@usdoj.gov>
Sent: Tuesday, March 9, 2021 2:18 PM
To: Keneally, Kathy <kkeneally@jonesday.com>
Cc: Varnado, Jason S. <jvarnado@jonesday.com>; Loonam, James P. <jloonam@jonesday.com>; Smith, Corey (TAX) <corey.smith@usdoj.gov>; Langston, Lee F. (TAX) <Lee.F.Langston@usdoj.gov>; Ryan Darby <[REDACTED]>
Subject: FW:

**** External mail ****

Kathy,

Dr. Darby needs a phone number to make the PET scan and sleep study appointments. Can you please provide the number you would like him to use? I'm copying Dr. Darby here in case you'd prefer to respond to him directly.

Also, please note that the sleep study will be at Texas Medical Center instead of Houston Methodist.

Best,

Chris

From: Ryan Darby <[REDACTED]>
Sent: Tuesday, March 9, 2021 1:40 PM
To: Magnani, Christopher (TAX)
<Christopher.Magnani@tax.USDOJ.gov>

Cc: Garrett Evan W <[REDACTED]>

Subject:

A) I need a phone number for Mr. Brockman in order to send in the referral for the PET and sleep study. This is required demographic information for them to enter a patient into their system and to contact the patient about procedure for the day of the test.

B) After the referral is made, we will be able to schedule the tests.

C.) Houston Methodist informed me that they should have availability for the PET scan 3/11 or 3/12. They do not have availability for the sleep study until the week of 3/22.

D) I contacted Texas medical center which would be able to accommodate the sleep study on March 17th or 18th.

Best,

Ryan Darby

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